

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 26, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES DEAN CLOUD (01), and
DONOVAN QUINN CARTER
CLOUD (02),

Defendants.

No. 1:19-cr-02032-SMJ-1
1:19-cr-02032-SMJ-2

**ORDER GRANTING
DEFENDANTS' MOTION FOR
ACCESS TO PETIT JURY
SELECTION RECORDS**

Before the Court, without oral argument, is Defendant James Cloud's (01) Unopposed Motion for Access to Petit Jury Selection Records and Materials, ECF No. 502. Defendant Donovan Cloud (02) moved to join in the motion, and the Court granted his request. ECF Nos. 542; 555. Defendants seek access to certain information concerning the selection of the petit jury for Defendants' upcoming trials. The Government does not oppose the motion. Having reviewed the motion, the Court is satisfied that the requested records and materials are within the scope of Defendant's right of access under 18 U.S.C. § 1867(f) and therefore grants the motion, subject to the limits described below.

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ORDER GRANTING DEFENDANTS' MOTION FOR ACCESS TO PETIT
JURY SELECTION RECORDS – 1

1 Accordingly, **IT IS HEREBY ORDERED:**

2 **1.** Defendant James Cloud’s (01) Unopposed Motion for Access to Petit
3 Jury Selection Records and Materials, **ECF No. 502**, is **GRANTED**.

4 **2.** All information and material, whether redacted or otherwise, produced
5 pursuant to this Order (“Petit Jury Material”) shall be subject to the
6 following restrictions:

7 **A.** Defense counsel may disclose and review the contents of the
8 Petit Jury Material with Defendants but shall not provide it to
9 them. Defendants shall not keep any Petit Jury Material in their
10 possession.

11 **B.** Defense counsel may copy or otherwise reproduce Petit Jury
12 Material, and disseminate the same, only where necessary to
13 evaluate, prepare, or present an appropriate motion, including to
14 defense counsel and any retained expert or investigator. Petit
15 Jury Material shall not be disseminated for any other purpose or
16 to any individual or entity not involved in this case.

17 **C.** All Petit Jury Material shall be destroyed upon completion of
18 this case and any related appeals. Defense counsel shall file a
19 notice with the Court confirming such destruction once
20 complete.

1 **3.** The Clerk's Office is **DIRECTED** to furnish the following records
2 and information **to James Cloud's defense counsel one week after**
3 **James Cloud's trial concludes** and **to Donovan Cloud's defense**
4 **counsel one week after Donovan Cloud's trial concludes.** The
5 Clerk's Office shall not furnish any of the following records or
6 information before these dates.

7 **A.** The United States District Court for the Eastern District of
8 Washington's jury selection plan in effect at the time the Clerk's
9 Office summoned the petit jury in this matter;

10 **B.** Any policies and procedures enacted for summoning and
11 enlisting grand jurors due to the COVID-19 pandemic;

12 **C.** Any Court Orders entered for summoning and enlisting petit
13 jurors due to the COVID-19 pandemic;

14 **D.** Any AO-12 or JS-12 form created that relates to the District and
15 Divisional Master Jury Wheels and Qualified Jury Wheels used
16 to summons the petit jurors in this matter;

17 **E.** Any statistical or demographic analyses produced to ensure the
18 Master Jury Wheels and Qualified Jury Wheels used to
19 summons petit jurors in this case comply with the jury plan;
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1 **F.** The date on which the District’s Master Jury Wheel was most
2 recently refilled;

3 **G.** The general notice explaining the process by which names are
4 periodically and randomly drawn;

5 **H.** The procedures employed to “purge” duplicate records, as well
6 as any report or analysis of those procedures;

7 **I.** The calculations used to proportionately reflect the number of
8 names from each county;

9 **J.** The procedures implemented to address prospective petit jurors
10 who do not respond to a juror qualification form, or have their
11 juror qualification form returned by the postal service as
12 undeliverable;

13 **K.** Any report or analysis on the supplemental draw;

14 **L.** Any report or analysis concerning the failure of prospective petit
15 jurors to submit a response to the juror qualification
16 questionnaire;

17 **M.** The date on which the petit jurors in this matter were
18 summoned;

1 *N.* Information on whether the prospective petit jury is
2 “divisional,” “combined,” or “entire district” as those terms are
3 defined in Section 4.05(b) of the Jury Selection Plan;

4 *O.* If the petit jury in this case was drawn from the entire district or
5 a combination of several divisions, the calculation of the ratio
6 and number of petit jurors from each division;

7 *P.* The number of prospective petit jurors summoned from the
8 Qualified Jury Wheel in this case;

9 *Q.* Data, in electronic format, on the District and Divisional Master
10 Wheel, **limited to** the individual’s juror number, race, gender,
11 Hispanic ethnicity, birth year, zip code, city, county, and jury
12 division;

13 *R.* Information regarding whether the voter list received by the
14 Clerk’s Office from its third-party vendor contains all registered
15 voters, or only inactive voters;

16 *S.* Data, in electronic format, on the District and Divisional
17 Qualified Jury Wheel, **limited to** the individual’s juror number,
18 race, gender, Hispanic ethnicity, birth year, zip code, city,
19 county, and jury division;

1 *T.* Data, in electronic format, on prospective petit jurors whose
2 juror questionnaire forms were returned undeliverable, not
3 returned, or were otherwise disqualified or exempted from
4 service under the Jury Selection Plan, **limited to** the individual's
5 juror number, whether the form was returned undeliverable,
6 whether the form was not returned, reason for disqualification,
7 race, gender, Hispanic ethnicity, birth year, zip code, city,
8 county, and jury division;

9 *U.* The juror numbers of persons whose qualification notice/form
10 was replaced as part of the supplemental draw;

11 *V.* The juror numbers of persons who were selected to replace an
12 undeliverable or unanswered qualification notice/form as part of
13 the supplemental draw;

14 *W.* The juror numbers of persons summonsed to appear for either
15 failure to appear or failure to submit a juror qualification
16 questionnaire;

17 *X.* The juror numbers for persons selected as potential petit jurors
18 in this case;

19 *Y.* The data sources, in electronic format, for the Master Jury
20 Wheel used to summons petit jurors in this case, namely voter

1 registration lists as well as driver's license and identification
2 lists. Such data is limited to race, gender, Hispanic ethnicity,
3 birth year, zip code, city, county, and jury division and **shall be**
4 **redacted to eliminate all personally identifying information;**

5 **Z.** Juror qualification and summons forms for persons summonsed
6 to potentially become petit jurors in this case, **redacted to**
7 **eliminate all personally identifying information;** and

8 **AA.** Information concerning the disposition of each prospective petit
9 juror summonsed in this case, namely whether each was
10 excused, deferred, disqualified, or impaneled.

11 **4.** If any of the above-described information and records are unavailable
12 to the Clerk's Office, but later become available, the Clerk's Office
13 shall furnish them immediately upon receipt, except the Clerk's Office
14 shall not furnish any information or records until one week after each
15 Defendants' individual trial concludes.

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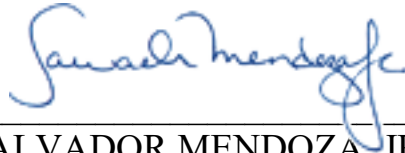
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3 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
4 provide copies to all counsel.

5 **DATED** this 26th day of January 2022.

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7 SALVADOR MENDOZA, JR.
8 United States District Judge
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